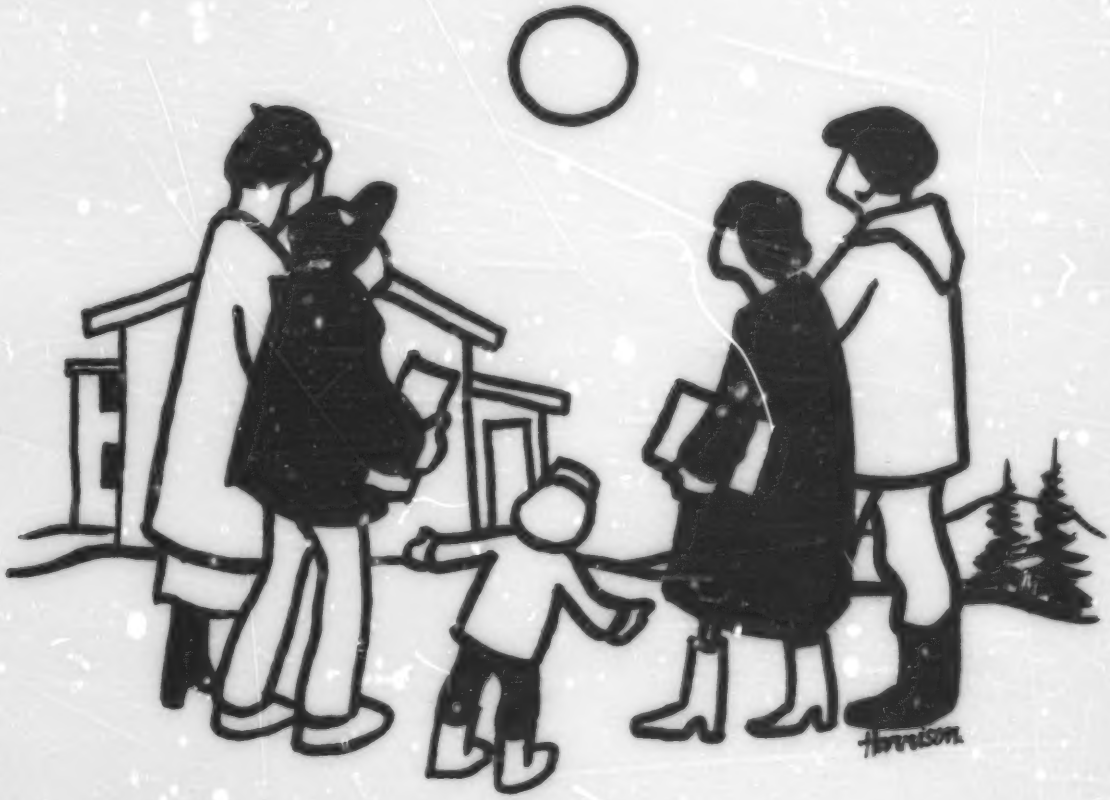
Partners in Education

A Summary of the Draft Yukon Education Act



December, 1989

Partners in Education

A New Direction for Education in the Yukon

Fifteen years have passed since the School Act was last amended by the Yukon government. In that time, the Yukon -- and Yukon people -- have changed. It has been clear for many years that the legislation that governs our children's education must change too, to meet the realities of today and the challenges of the future.

The Education Act is one of the most important pieces of legislation with which our government will deal. The future of the Yukon is tied to the education of our children. It is my intention to table the Education Act in the Legislature this spring. Before this is done, however, I want to share with you the results of almost three years of consultation.

You will recognize the principles on which the Education Act will be based. They come from people who have a vital interest in education, the people who presented their hopes and knowledge to the Task Force on Education and the Joint Commission on Indian Education, and who responded to the Action Plan.

This document, "A Summary of the Draft Education Act," presents the substance of the proposed legislation in a clear and concise manner. Your opinion is valued. I encourage you to contact the Department of Education with your comments. An "Education Act Hotline" has been established at 667-5331. You may also wish to write to "Partners in Education," Box 2703, Whitehorse, Yukon, Y1A 2C6.

I promised you last year that before the Education Act was introduced as legislation, I would ask you to review our government's plans for education in the territory. This summary reflects that commitment. Copies of the draft Education Act are also available from the contacts given above.

I believe the Draft Education Act represents the wishes of the people of the Yukon. We have worked hard, together, to do the best for our children. I now turn to you for guidance and support in ensuring that, in the years to come, we are all indeed partners in education ... for our children today, and the children of tomorrow.

Piers McDonald

Piers McDonald

Minister of Education

December, 1989

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Introduction

An Act to Meet Our Changing Needs

Fifteen years have passed since the Yukon School Act was amended. In that time, the Yukon and Yukon people have changed. It has been clear for many years that the legislation that governs our children's education must change too.

Parents and communities want a greater voice in the operation of their school and the choice of curriculum. Many Yukon people, as educators, students, parents, and community representatives, want a greater involvement in the operation of their school. They want to see stronger ties between the school and their family, community organization, band, and church. They want to see stronger ties to the Yukon's history and culture and to the Yukon's "outdoor classroom" – the environment. And most importantly, they want to place the student at the center of all of this and formally recognize the unique and special needs of each individual.

The new Yukon Education Act will attempt to meet all of these changing needs and the wishes of Yukon people across the territory. It will establish in law the required partnership between students, parents, teachers, communities and the government. The Act will come into effect prior to the start of the 1990 school year.

A draft of the Act has just been released to the public for review prior to final revision and then tabling in the Legislative Assembly for passage. This booklet summarizes the important elements of the proposed Act. It will help you suggest changes to the draft Act that might be required to meet better the needs of you and your children.

An Act that Involves You

The draft Act represents the direction our education system can take through the 1990s. It will provide the basis for the approaches we and our schools can take to meet the changing needs of Yukon society, and, more importantly, the educational needs of our children.

The draft Act reflects the views, advice and opinions of thousands of Yukon people over the last three years. They have made their comments known through briefs and oral statements in a variety of meetings and forums. Some have participated in the Education Act Task Force and its hearings throughout all Yukon communities. Others were involved through the Joint Commission on Indian Education and Training. Their comments were brought to our attention through the Commission's report – *Kwiya*. Still others provided their comments and advice through their submissions following the release of the government's White Paper on the Education Act.

Although this process was time consuming, it has provided all Yukon people and their representative groups with the opportunity to participate in the development of the draft Act. Through it they have defined the educational issues, evaluated the possible options and their consequences, and worked towards a consensus of opinion and resolution on a particular approach.

The release of the draft Act for public comment is the last opportunity for Yukon people from every corner of the territory to ensure that the proposed Act accurately reflects their needs and meets the future challenges facing them and their community.

The Basic Principles

The basic principles upon which the draft Education Act is based and upon which the system is governed are contained in a preamble to the Act. By placing these principles in the Act itself, they become law and carry a greater degree of weight and stability in influencing the character of education in the Yukon. In effect, they are firm commitments that the government is legally obligated to fulfill.

Five basic principles underpin the draft Act:

– Yukon people agree that the goal of the Yukon Education system is to develop the whole child, including the intellectual, physical, social, emotional, moral, spiritual, cultural and aesthetic potential of all students to the extent of their abilities so that they may become productive,

responsible and self-reliant members of society while leading personally rewarding lives in a rapidly changing world.

- The Yukon education system will recognize a right to educational opportunities appropriate to the individual learner, based on the following principles: equality of educational opportunity, preparation of students for life and work in the Yukon, Canada and the world, and promotion in the community of a love of learning.
- Meaningful partnerships with greater public participation are encouraged for a high quality Yukon education system.
- The Yukon curriculum shall reflect the cultural heritage of Yukon aboriginal people and the Yukon's natural environment.
- The rights and privileges enjoyed by minorities as enshrined in the law shall be recognized.

Students

At the centre of any educational system are those who are there to learn. Meeting the needs of students should be foremost in any formal educational system. By definition, it is they who are seeking the knowledge and skills to participate as active, productive members of society, however they choose to define their contribution and their role.

The draft Act would reaffirm the central place that students play in the educational system and establish the rights, responsibilities and duties of students that flow from this recognition.

Student Rights

Section 34 of the draft Act would firmly establish the rights of students. They include the following:

- The right to receive a free education program appropriate to their needs.
- The right to choose an optional education program.
- The right to receive an education program formally outlined in an Individualized Education Plan when the student is in need of a specialized education program.
- The right to examine and copy their student records.
- The right to be treated in a fair and consistent manner.
- The right to appeal, either individually or with their parents, decisions that significantly affect their education, health or safety.

Section 36 of the draft Act would entitle students to express any religious, political, moral or other belief or opinion as long as the expression does not adversely affect the rights or education of other students.

The Act would establish that the school administration could not use corporal punishment in the discipline of students.

Finally, Section 40 would entitle students who are suspended or dismissed from school, and their parents, to be advised by the principal of the grounds for the dismissal or suspension, as well as the student's rights in appealing the decision.

Student Responsibilities

In addition to rights for students, the draft Act also establishes certain responsibilities that their participation in the school system requires. Based on principles of fairness, equality and justice, they include the following:

- Regular school attendance
- Punctual arrival for each class or session
- Respect for the rules of the school
- Active participation in the courses of study and the activities assigned by the teacher
- Return of school books or equipment borrowed from the school, and
- Respect for school property.

Section 37 of the draft Act recognizes that students 19 years of age or older are responsible for their own actions.

Attendance

Attendance is compulsory for students who on September 1st of any year are 6 years 8 months of age or older and younger than 16 years. Exemptions for students are permissible for the following personal reasons:

- Sickness or other unavoidable causes
- Participation in religious observances, celebrations, or activities recognized by a religious denomination or for participation in Yukon aboriginal cultural activities
- The student has been suspended by a school and has not been given permission to enroll in another school
- Enrollment at a private school or in home schooling
- Enrollment in correspondence courses approved by the superintendent or director

Students may request to be excused from school, but permission will be dependent on prior consultation with the superintendent or director.

Parents

The primary responsibility for educating children belongs to parents. Though most parents in the Yukon choose to delegate some of this responsibility, by enrolling their children in the local publicly-funded school, they should also have a choice of alternatives. The draft Act would therefore allow parents to choose among public, private, or home schooling. Because providing choices is an opportunity the education system itself should permit, the draft Act would also recognize the importance of specialized education programs designed to meet the various and specialized needs of Yukon's students.

Parental Involvement in Schools

Education depends on the mutual trust and involvement of the parent, educator, and child. Indeed, each belongs to a "partnership" in which the parent plays a key role both inside and outside of school. A great number of parents are volunteers at schools, providing needed assistance to professional staff or simply observing the educational process. When school is out, most parents involve themselves directly in their child's education by reviewing homework or participating in school projects or activities.

Other parents have chosen to involve themselves directly in the operation of the schools by serving on School Committees, which traditionally have advised on a variety of school-related matters. The draft Act would allow for the establishment of School Councils and School Authorities, giving parents an even greater opportunity to influence school operation and the kind of education their children receive. These elected bodies would provide parents with the opportunity to become more than advisors. School Authorities, for example, would have powers similar to those of a provincial school board. Parents who choose not to run for seats on a Council or Authority could still participate by voting for those candidates they feel best qualified to act on their behalf.

Parental Rights and Responsibilities

With the increasing opportunity for parents to affect directly their children's education come the rights and responsibilities that enable parents to perform as vital partners in this important endeavour. Recognizing this need, the draft Act sets out these rights and responsibilities to ensure that all parents can feel secure in the significant role they play.

Rights of Parents

Section 19 of the draft Act establishes the rights of parents of children attending school. They include the following:

- The right to be informed of the progress, behaviour and attendance of their children.
- The right to observe their children in the classroom, upon reasonable notice to the teacher.
- The right to appeal decisions that significantly affect the education, health, or safety of their children.
- The right to be consulted on an Individual Education Plan prepared for their children.

Section 20 of the draft Act entitles parents to choose among home schooling, private schooling, and publicly-funded schooling for their children.

Section 21(2) gives parents the right to examine and copy the student record pertaining to their child.

Section 29 establishes the right of parents to be consulted about their child's attendance at school and the principal's subsequent investigation of non-attendance, when that situation occurs.

With regard to a child's special education, parents would have the right to receive explanation for such a need as well as the right to become involved in the development of a program suitable to the child. Most important, parents would have the right to request that their child be considered for a special education program. As well, written consent from parents would be needed before a child is subjected to psychological tests.

Involving parents in important decisions influencing their children's education would require the right to appeal, in the event that a parent believed a school employee significantly affected the education, health, or safety of his or her child. The draft Act would therefore guarantee parents an appeal procedure and establish an Education Appeal Tribunal to which parents would have access.

Parental Responsibilities

In addition to parental rights, the draft Act places responsibility on the parent to ensure that his or her child attends school, if required to do so. Parents who neglect or refuse to allow their children to attend are guilty of an offense, unless legally excused, and liable to a fine. As well, parents may be held liable for damage to school property caused by their children.

Teachers and Principals

Emphasized throughout the draft Act is the goal to see educators working together with parents and the community for the benefit of the student. Teachers and principals would keep the duties currently assigned them under the current School Act. However, their influence over school affairs would increase to reflect a new accent on school-based management that is both responsive and responsible.

Principals

Principals would be recognized as the chief educational officers of their schools and as such, would be responsible for a wide range of duties, extending beyond the activities of teachers. Principals are to establish and maintain satisfactory relationships with parents and the community served by their schools. As well, the activities of all school employees would fall within their extended responsibilities. Principals would also arrange to include, within school activities, the cultural traditions and practices of the community.

Responsibilities of Principals

The draft Act contains most of the duties assigned to principals under the School Act. These duties include the following:

- Maintaining order and discipline in the school, on the school grounds, and during school-approved activities
- Supervising, directing and evaluating teachers
- Assigning teaching duties to teachers in the school
- Supervising and directing other school staff
- Directing the management, administration and operation of the school
- Directing the implementation of the approved school plan
- Preparing the school's operations and maintenance budget and ensuring that it is implemented
- Keeping parents apprised of the students' progress and development
- Ensuring that instruction in the school is consistent with the courses of study prescribed pursuant to the Act, and
- Ensuring the proper maintenance and care of school property.

Terms of Employment

The draft Act promotes the concept that principals, as teachers themselves, should have the opportunity to work closely with staff and students but also that they should continue teaching classes in their school, as may be required. Annual evaluations of teachers would be done by their principals, who in turn would be evaluated annually by the Director of a School Authority or by the Superintendent of the Department of Education, following consultation with teachers and parents through their elected representatives.

School Councils and Authorities will select the Principals for their schools but the Principals will remain as employees of the government. Principals, like teachers, will serve a probationary period of two years.

Transfer rules for principals are slightly different than those for teachers. Principals appointed before the proclamation of the proposed Education Act may be transferred to the principalship of other schools, provided those schools are not operated by a School Authority. Principals appointed after proclamation, however, may be transferred to other schools, where they may hold a principalship or teaching position. In both cases, the principal may either appeal the transfer or resign within 30 days of receiving notice of the transfer. Principals who accept the transfer would be paid at their former salary, should the salary offered at their new school be lower.

Teachers

The draft Act recognizes the pivotal role of teachers, as professionals, in the achievement of established goals for the education system and in ensuring the well-being of students.

Rights of Teachers

Under the draft Act, teachers would have the right to:

- Participate in the preparation of the school plan
- Participate in the evaluation of the school principal
- Participate in activities that further their development as professionals
- Due process as it relates to their terms of employment and benefits
- Appeal suspension or termination of contract, and
- Examine and copy their personnel record.

Under the draft Act, teachers would also have the right to engage in political activity outside of their working day, provided that they not reveal any knowledge acquired in the course of their work or publicly criticize any government policy that they had been instrumental in forming. A teacher who runs for either federal or territorial public office would be granted an unpaid leave of absence. If elected, this leave would be extended for the duration of his or her term. The teacher would be allowed to return to a teaching position when the term of office expired.

Responsibilities of Teachers

A teacher's responsibilities and duties would include the following:

- Encourage students in the pursuit of learning and teach them diligently and faithfully
- Teach courses of study that are prescribed, approved or authorized pursuant to the Education Act
- Report on the progress, behaviour and attendance of students to their parents
- Maintain order and discipline among students while they are in school, on the playgrounds or participating in school-approved activities
- Review with students their assessments and progress and advise students of the expectations for them
- Observe the rules of the school
- Co-operate with parents in allowing observation of their children in the classroom
- Report promptly to the principal apparent outbreaks of contagious or infectious diseases in the school, unsanitary conditions in the school building or on the premises and any other condition that might threaten the health or safety of the students
- Co-operate with student teachers and their instructors and the school administration in assessing student teachers
- Report to the principal and to the proper government official responsible for child welfare any case of suspected child abuse, and
- Undertake reasonable and regular upgrading of their teaching qualifications, as recommended by the Teacher Certification Board.

Terms of Employment

No person would be employed as a teacher unless that person possessed a valid certificate of qualifications or a letter of authority as a teacher issued in accordance with regulations.

Teachers would remain as employees of the Yukon government, but would be under the direction of a School Authority, when assigned to or hired by one.

Teachers would be on probation for the first two years after their appointment. During this period, they would be evaluated at least twice and, if satisfactory, would continue teaching unless their contract were terminated in accordance with rules outlined in the draft Act. While on probation, a teacher may be dismissed with 30-days notice.

In addition to an annual evaluation by the principal, a teacher would be evaluated at least once in every three years by the School Authority or Department of Education. The process and terms for these evaluations will be outlined in the regulations pursuant to the Act.

A teacher may be dismissed or suspended for just cause, which includes misconduct, unsatisfactory service, neglect of duty, unwillingness to perform duties, or when charged with a criminal offense which, in the opinion of the Superintendent or the School Authority, would adversely affect the school if the teacher continued in his or her position. Prior to final contract termination, the teacher would be provided an opportunity to appeal this decision. A procedure for suspensions, as well as provisions for salary during suspension and other payments, are outlined in detail in Sections 171-176.

Teachers can be transferred between schools operated by the Department of Education or between those run by an Authority. However, to transfer between the two types of school, or between schools operated by different Authorities, a teacher must sign a new contract of employment.

If a school, classroom, or instructional department closes as a result of a decrease in student enrollment, lay-offs may take place. In this event, teachers would be laid off in the reverse order of merit and, where merit is comparable, seniority would prevail.

Aboriginal language instructors, when providing aboriginal language instruction, would be deemed teachers and as such, would be under the supervision of the principal of the school where their classes are held.

Teacher Qualification and Certification

The Minister would be responsible for appointing a Teacher Qualification Board. This would be composed of a representative of the teachers' association, a representative of the Minister and a professional educator selected by mutual agreement of the teachers' association and the Minister. The Teacher Qualification Board would determine the category of certificate of qualification for salary purposes, in accordance with the regulations.

The government of Yukon would appoint a Teacher Certification Board which would be composed of two persons nominated by the teachers' association, two persons nominated by the Department of Education, one person nominated by the Councils and Authorities, one person nominated by the Council for Yukon Indians and one person nominated by Yukon College who is a professional educator. Terms of office would be fixed by the Minister.

The Teacher Certification Board would:

- Advise and make recommendations to the minister on any program or course of study for the upgrading of teacher qualifications and the training of teachers
- Review regulations and recommend changes governing types, issuance, suspension and cancellation of teachers' certificates, and
- Make recommendations to the Minister for certification of any persons whose status with respect to qualifications is referred to the Teachers Certification Board.

Teaching Profession

Part 10 of the draft Act is designed to recognize teachers as professionals and to allow for the enhancement and monitoring of their professional concerns. The Yukon Teachers' Association would be recognized as the professional association and would be responsible for regulation of the profession.

The objectives of the teachers' association are wide ranging. They include the following:

- To advance and promote the cause of education in the Yukon, through co-operation with territorial and national organizations, by increasing public interest in the importance of education and public knowledge of the aims of education, the financial support required for education, and other educational matters
- To improve the teaching profession through the promotion and support of recruitment practices and pre-service programs, assisting the Minister and Authorities in the training and supervision of student teachers, encouraging the establishment of working conditions best suited to the profession as well as to teacher development and education, carrying out research, and assisting, advising, protecting and disciplining members in their duties and relationships
- To promote and safeguard the interests of the teaching profession and its members, and
- To promote the continuous improvement of professional competence and of learning and teaching conditions.

As a professional organization, the Yukon Teachers' Association would have powers that include:

- The right to own and control property
- The right to invest, borrow, or grant money to other organizations, and
- The right to promote and sponsor sickness, accident and general health insurance plans, supplemental to government sponsored plans.

The membership of the Yukon Teachers' Association, like its objectives, is diversified and includes active, associate, associate employee, life,

honorary, and student members. Under the draft Act, rules for membership would include the following:

- Any person employed as a teacher in a school that is operated by the Minister or by an Authority would, as a condition of employment, be an active member of the Yukon Teachers' Association
- Teacher aides, remedial tutors, and aboriginal language instructors would be eligible for membership, as prescribed by the by-laws of the association
- Membership would not include directors of Authorities, and
- Teachers would be able to exempt themselves from membership on the grounds of religious belief or conscience, subject to a continuation of payment of fees.

Other sections of Part 10 spell out certain organizational concerns, such as the timing of the General Meeting, identification of executive matters dealt with in by-laws, and the method of deducting fees.

Sections 189-195 concern unprofessional and unethical conduct and refer to such procedures as how complaints are laid, who can lay them, the method by which discipline is handled by the teachers' association, the penalties involved, and the appeal procedure.

Section 195 requires the Minister to consult with the teachers' association on matters of educational policy that affect its membership, and that he or she would consider any recommendation or report received from the teachers' association.

Teacher-Employer Relations

Part 11 of the draft Act sets out the procedures for collective bargaining and for solving employment-related disputes between teachers and their employer. Disputes can focus on either interest or rights. The procedures for resolving both kinds of dispute are dealt with separately.

Interest disputes are those which arise from the inability of the parties to reach a collective agreement. That is, their interests are so opposed that it seems unlikely that the parties can reach an agreement on their own. In such a case, they require the assistance of a third party in helping them reach a collective agreement.

Sections 222-243 provide for the assistance of a mediator, and also for the services of an arbitrator if the mediator is unsuccessful in bringing the interests of the parties closer together. The award of an arbitrator, which becomes the new collective agreement, is final and binding upon the parties.

The draft Act also provides for an alternate route to resolving interest disputes. Sections 244-254 allow for the appointment of a conciliator, whose report may help clarify for the parties the issues which separate them. Sections 270-282 outline the rights of the parties when a strike or lockout occurs.

Rights disputes concern differences in opinion between the parties over their respective rights that flow from a collective agreement once one has been reached. Sections 255-269 of the draft Act provide for an internal grievance procedure. The level one grievance officer remains the superintendent, but the second level grievance officer is now a third party mutually chosen by the parties.

If either side is dissatisfied with the way a grievance has been decided internally, the grievance may be referred to an adjudicator whose decision is final and binding. The Yukon Teachers Staff Relations Board would continue to regulate the process for resolving both interest and rights disputes. Provisions for its composition and operation are outlined in Sections 198-209 of the draft Act.

School Councils and Authorities

The government is following the recommendations of the Education Act Task Force by proposing to establish locally elected bodies to oversee schools. A three-tiered system of local control over schools will be established – School Authorities, School Councils and School Committees. A three-tiered system takes into account that some rural communities might not have the experience or expertise in certain areas to take on full responsibility for their school's operations.

School Authorities

For communities capable or willing to take on full responsibility for their school's operation, a School Authority would be established. Similar to the provincial school board model, school Authorities would have greater specific powers than School Councils. Authorities created under the Act would not be institutions of the Yukon government and, except to the extent an agency relationship is created by contract with the government, Authorities are not agents of the government.

Powers of a School Authority

A School Authority has the power to:

- Hire, dismiss, discipline, transfer and demote staff, including teachers and principals, subject to the Act and its regulations and any applicable collective agreement
- Review, modify and approve the school plan prepared by the school administration. The school plan includes the objectives of the school, educational priorities, courses of study by grade, evaluation procedures, staffing requirements, budget, and other information required for the effective functioning of the school
- Provide policies for the administration, management, operation and upkeep of its school
- Receive grants, contributions, or funds approved by the Minister
- Provide educational programs, including locally developed courses, that can be used in up to 20 per cent of the school program
- Set a school's schedule, length of the school day and the duration of the school year
- The power to provide equipment and supplies for schools
- The power to settle disputes between its school(s), teachers and parents

Optional Powers

A School Authority may:

- Advise the Minister of Education on school closures and transportation services.
- Request evaluations of teachers or principals.
- Exercise the right to examine and investigate student progress, order and discipline, systems of instructions, and conditions of buildings.
- Provide professional development for teachers.
- Purchase or rent school premises or teacher residences, and acquire property.
- Sell, lease, rent or dispose of property valued at over $5000, upon the Minister's approval. The same powers can be exercised without Ministerial approval for property valued under $5000.
- Determine the duration of extra-curricular activities and the allocation of school days for extra-curricular activities.
- Enter into agreements with the Yukon Government on capital and maintenance with respect to schools.
- Enter into agreements, under Ministerial Approval, with the Government of Canada, Yukon First Nations, government agencies and other Authorities for educational and or other services such as transportation.

Duties of School Authority

The duties of a School Authority would include:

- Ensuring schools are conducted in accordance with the Act and its regulations

- Arranging for the evaluation of its schools every five years, in accordance with Ministerial guidelines, and
- Keeping reports of meetings and financial transactions.

School Authorities must also:

- Establish and consult with parental advisory committees if requested
- Provide reports requested by the Minister
- Consult with the school administration of each school
- Establish banking arrangements, and
- Approve payments.

School Councils

A School Council is an evolutionary step toward a School Authority. It would have less power and fewer responsibilities than a School Authority. While the Minister would retain responsibility for the operation and maintenance of any school in an educational area where there is a School Council, the Council would have more extensive powers and responsibilities than those held currently by the School Committee.

Powers of a School Council

A School Council has the power to:

- Review, modify and approve the school plan prepared by the school administration
- Select the school principal, and
- The power to establish procedures for resolving disputes between schools, parents and teachers in consultation with the superintendent, school administration and teachers.

Optional Powers

A School Council may:

- Include locally developed courses to be used in up to 20 per cent of the school program.
- Approve the allocation and expenditure of the school's operating and maintenance budget.
- Request the evaluation of teachers or principals and recommend to the superintendent the dismissal of these employees.
- Approve curricular and extra-curricular activities of more than one day's duration and approve the allocation of school days for extra-curricular activities.
- Establish rules and policies on any matter within its jurisdiction.

Advisory Role

School Council also can advise the Minister on the establishment of the school year and school day, school programs, closures, teaching and support staff requirements, transportation requirements and services, and school renovations.

Duties of a School Council

The duties of a Council include keeping records of meetings and financial transactions, establishing banking arrangements and approving payments, and preparing reports as required by the Minister.

School Committees

In accordance with Section 66, School Committees may still exist under the new Act. If they do exist, they are to be established as advisory committees for the schools, and can advise the school administration on any matter relating to the school and perform any duty delegated to it by the Minister.

Establishing School Councils and School Authorities

Sections 57-72 of the draft Act describe the procedures for the establishment of and transition to School Councils and School Authorities.

- As a first step, education areas will be established by the Minister. Any portion of the Yukon may be established as an education area.
- The Minister would then define the residents of each education area, according to such criteria as geography, language or religion.
- Each education area will have a Council or Authority established as well as the number of people to be elected to sit on them (a minimum of five and a maximum of seven).

- Upon proclamation of the Education Act, every School Committee would become a School Council and be given corporate status, unless exemption were specifically requested by the School Committee and approved by the Minister.
- When a Council has been in existence for one or more school years, the Council may, by resolution of the members, or 20 per cent or more of the residents in the education area of the Council may request, by petition, that the minister establish an Authority in the place of the Council.
- The Minister would then conduct a vote of the residents. If over 50 per cent of the residents agree, the education area would be granted School Authority status.
- Provisions exist for the Minister to combine two or more School Councils into an Authority. The procedures for combining Councils, Committees or Authorities follow the same process outlined above.

Elections

Sections 73-98 of the draft Act outline the procedures for elections of School Councils and Authorities. These sections deal with such issues as nomination and nomination date, the role of the Chief Electoral Officer and Returning Officer, rules concerning the voters' list, notices, polling day and the counting of ballots.

Voters must be Canadian citizens, 19 years of age and over on the day of the poll, resident in the education area for three months prior to the date of the poll, or have a child in the education area.

Candidates can be anyone qualified as a voter for the education area except for those deemed ineligible.

Those who would be ineligible candidates include:

- An employee in a school in the education area
- A judge of the court (other than a Justice of the Peace or a Youth Court Judge)
- Anyone who directly or indirectly has any contract or other interest in any contract with the School Committee, Council or Authority
- Anyone indebted to the Committee, Council or Authority for a debt exceeding $250, and
- Individuals who are incarcerated.

The length of office for Council Members will be two years. The length of office for Authority Trustees will be three years.

General elections for School Council Members will be held not sooner than 23 months and not later than 25 months from the preceding general election on a date specified by the Minister.

General elections for School Authority Trustees will be held at the same time as Municipal elections.

Council Members and Authority Trustees

Council Members and Authority Trustees will exercise their powers and duties as elected representatives of the people of their educational area. Fees, remuneration, reimbursement for expenses and allowances for Council Members and Authority Trustees will be established by regulations.

Duties and Obligations

Members and Trustees may not disclose information about personnel files to which they have access unless the disclosure is in respect to a proceeding referred to in the Education Act. Those failing to comply are liable to a fine of up to $1000.

Trustees may not be the Secretary-Treasurer of the Authority on which they serve. Members can, with the Deputy Minister of Education's approval, be the Secretary-Treasurer for the Council on which they serve.

Members and Trustees will lose their seats if they:

- Are incarcerated
- Are absent from three or more consecutive meetings without authorization
- Cease to be a voter in the education area
- Use information gained through their position for pecuniary gain
- Become a judge of the courts
- Become an employee of the Council or Authority, or
- Have a pecuniary interest, direct or indirect, in a contract with the Council or Authority.

Members and Trustees can provide goods or services to the Council or Authority where the sale of goods or services to the Council or Authority, or to persons contracting with the Council or Authority, is made at competitive prices by a dealer in those goods or services and if it is incidental to or in the ordinary course of their business. A member or trustee may not vote at any meeting of Council or Authority on any question affecting the contract for such goods and services. Those failing to comply are liable to a fine of $5000 or 30 days imprisonment.

Trustees who knowingly sign false reports or false returns are liable to a fine of $500 or three months' imprisonment or both.

Members and Trustees who, after ceasing to hold office, retain any money, books, paper or property belonging to a Council, Authority or the government, may be subject to a fine of $200 per day, if they fail to return the missing property after having been notified in writing. Individuals who still fail to comply are liable to either a fine, 30 days imprisonment or both.

Members and Trustees who willfully neglect, refuse to exercise or assist in exercising powers vested in the Council or Authority for the fulfillment of any contract or agreement made by it, are personally responsible for the fulfillment of that contract or agreement.

Where an Authority willfully contracts liabilities in the name of the Authority, other than as provided in the Act, the trustees of the Authority will be held liable.

Where an Authority willfully appropriates any money of the Authority for purposes other than allowed by the Act, the Trustees of the Authority will be held liable.

Members or Trustees can appeal their disqualification to a judge.

Staffing for Councils and Authorities

Authorities will hire an Education Director as the chief executive officer responsible for:

--Preparation and forwarding of required reports and returns general supervision and evaluation of schools, principals, teachers and other staff

--Provision of professional services

--Establishing and maintaining good relations with students, parents and the community, and

--Ensuring schools are conducted in accordance with the Act and report any non-compliance with the Act to the Authority and the Minister.

A person may be both a principal and a director.

Education Councils and Committees shall be assigned a superintendent by the Minister who would perform the duties of an education director. An appointee may be a superintendent for more than one Council or Committee.

Meetings and Operations

Sections 118-136 describe the regulations and procedures for the meetings and operations of School Councils and School Authorities. These sections deal with subjects such as Oath of Office, frequency of meetings, selection of the Chair, rules of procedure, voting, passing by-laws, when meetings shall be closed and exclusions from meetings.

Each Council or Authority is obliged to hold an open annual meeting for the voters in its education area. These meetings are to include a report to the voters in the education area. As well, these meetings are to include a report from the Education Director or superintendent, and a report on the school(s) educational activities of the previous year.

A Council or Authority may call for a special public meeting at any time.

Program of Studies

The draft Act would provide a broad program of studies that would meet the basic requirements of Yukon people to participate in the social and economic life of their local community, the territory, and elsewhere. As well, this program would strive to meet the unique requirements of individual students according to their differing abilities and interests.

The Basic Program

Any program of studies must have as its principal goal, the development of the student's basic skills. This means that school courses would help develop a student's self-worth, provide opportunities for individuals to reach their maximum potential, promote personal growth in Yukon society, promote recognition of equality among Yukon peoples, develop critical and creative thinking skills, and prepare students for participation in Yukon and Canadian society.

Under the draft Act, courses of study would, as in the past, focus on the skills of literacy, listening and speaking, reading and writing, mathematics, analysis and problem solving, information processing and computing, as well as the skill areas of art, science and technology, personal health and fitness and physical development.

In addition, the draft Act would also add to the basic program courses of study that would:

- Further an understanding of the contemporary role of women and the principle of gender equity
- Promote the understanding of the history, language, culture and values of Yukon's First Nations, and their changing role in contemporary society, and
- Increase awareness and appreciation of the Yukon's natural environment.

Special Education

The draft Act recognizes that there are students who, by virtue of intellectual, communicative, behavioural, physical or multiple exceptionalities, are in need of specialized education programs. Accordingly, these students would be entitled to receive a program outlined in an Individualized Education Plan. The Plan would be delivered in the least restrictive and most supportive environment, to the extent that it is considered practical by the Deputy Minister or an Authority, after consultation with professional staff. It would be considered with regard for the educational needs of all students.

Section 17 establishes the process and procedures involved in the determination of Special Education needs. Section 18 establishes the grounds on which decisions concerning the determination of Special Needs or an Individualized Education Plan can be appealed by students, parents, an Authority or the Deputy Minister to the Educational Appeal Tribunal.

Language Programs

Section 41 of the draft Act recognizes that every student is entitled to receive an educational program in English.

Section 49 allows the Minister to authorize the delivery of an educational program or part of a program in an aboriginal language, after receiving a request from a Council, an Authority, a Local Indian Education Authority or a Yukon First Nation. The Minister would consider such factors as the number of students to be enrolled in instruction, the availability of resources and personnel for the instruction, the educational feasibility of providing the instruction, and the effect of the instruction on the students who receive their instruction in English.

The Minister would be obligated to provide for the development of instructional materials for the teaching of aboriginal languages and the training of instructors of the aboriginal languages. The scheduling of aboriginal language courses would be developed in consultation with the appropriate Local Indian Education Authorities, and annually with the Indian Education Commission.

French language programs would be continued as part of the school curriculum.

Locally Developed Courses of Study

Section 42 of the draft Act would allow the use of locally developed courses in educational programs, with the approval of the School Authority and the Minister. These courses could represent up to 20 per cent of the educational program offered to any student in a semester or a school year. Any Ministerial rejection could be appealed to the Educational Appeal Tribunal.

Alternative Programs

Section 15 would establish that, on the request of a student or parent, the Deputy Minister may authorize the student to attend an educational program at a school in the Yukon other than the one to which the student is assigned. Tuition fees may be levied for a student's attendance.

Optional Education

Outside of formal enrollment and direct participation in a Yukon public school, the draft Act recognizes other options for Yukon students according to the differing and preferred needs of families across the territory.

Private Schools

Section 29 of the draft Act states that parents have the option of enrolling their students in a private school – that is a school run by someone or a body other than the Minister or an Authority that offers instruction during school days to children of compulsory school attendance age.

Private schools would be recognized and registered only if:

- Their courses of study meet the standards established by the Act
- Their teachers meet departmental regulations
- The school permits departmental evaluation and monitoring
- The school meets local and territorial health, safety and building standards, and
- Its students achieve standards equal to those in public schools.

The Minister would also retain the right to establish standards for eligibility age and the school program to be offered in the private school.

Private schools would receive no funding from the government, a Council or an Authority.

Home Education

Parents may choose to teach their children at home under the following conditions:

- The course work meets the standards set by the regulations
- The home student is registered as a home student at a public school, and
- The parent agrees to assessment of the student and educational program.

Correspondence

Students could enroll in correspondence courses under the following conditions:

- The course(s) are not offered by the school
- The courses meet the requirements of the Act and its regulations
- It is in the student's interest to take them, and
- The student lives in a location where he or she cannot attend a school.

Fees may be charged, but no student would be denied correspondence courses because the parents could not afford them.

Kindergarten

Attendance at kindergarten would not be compulsory, but the Minister would be obligated to establish a kindergarten program. At least one school in each community would provide a free kindergarten program provided numbers warrant. Children would not be eligible for kindergarten instruction until they have attained the age of four years and eight months by September 1.

Preschool

Under the draft Act the Minister may establish and maintain preschools. Fees may be charged, but waived for parents who cannot pay them.

Yukon First Nations

The report of the Joint Commission on Indian Education, *Kwiya*, contained a series of recommendations on Indian Education. The draft Act responds positively to those recommendations. In addition to establishing rights and responsibilities for Indian parents as members of School Councils and trustees of School Authorities, the draft Act establishes specific rights accruing to Yukon First Nations.

In all cases where there is a conflict between the rights recognized under the Act and those recognized in the Yukon Land Claims Agreement and the First Nations Self-Governing Agreements, the latter will prevail.

Decision-Making Bodies

Some of the special rights established in the draft Act for Yukon First Nations flow from the creation of new decision-making bodies.

Local Indian Education Authority

Each Yukon First Nation will have the right to establish a Local Indian Education Authority to act and speak for it on educational matters. Alternatively, the Yukon First Nation can act and speak for itself on educational matters. The draft Act would establish specific rights for the Local Indian Education Authority and the Yukon Indian First Nation. These include the ability to:

- Request the Minister to provide instruction in a native language
- Require the Minister to consult with Local Indian Education Authorities on the scheduling of instruction in native languages
- Enter into agreements with Councils or Authorities for the provision of educational services by the Yukon First Nation
- Enter into agreements with Councils or Authorities for the provision of non-educational but school-related services, such as transportation and the operation of school residences
- Require school administrations to consult Local

Indian Education Authorities on the nature of aboriginal cultural heritage traditions and practices that are to be included in the activities of the school, and

- Develop courses of study for possible inclusion in the school's curriculum to a maximum of 20 per cent of the course load.

School Councils and Authorities

Under the draft Act, each Yukon First Nation would have guaranteed representation on Councils and Authorities. The number of representatives and the period covering their guaranteed representation would be negotiated by the Minister with Yukon First Nations, in consultation with School Councils and Authorities. Each Yukon First Nation would negotiate the method (election or appointment) of filling its membership with the Minister.

Indian Education Commission

The draft Education Act requires the Minister to recognize the Indian Education Commission, if and when it is established by the Council for Yukon Indians. The mandate of the Indian Education Commission would be at the discretion of Yukon Indians, as represented through the Council for Yukon Indians. If an Indian Education Commission is established, the Minister would be obliged to consult with it on all matters affecting the education of Yukon Indians, as well as accept for consideration any report or recommendations rendered by it. The Indian Education Commission would have the authority to undertake projects concerning the education of aboriginal students, such as the development and preservation of aboriginal languages or curriculum development, and seek financial assistance from the Minister of Education.

Languages

The draft Act would allow more opportunities for instruction in native languages. In order to facilitate such instruction, the department would be obliged to develop instructional materials in native languages as well as assist in the training of native language instructors. The draft Act would promote the use of aboriginal people to provide aboriginal language instruction. It would require the Minister to ensure that the instruction of aboriginal languages is given fair treatment in the scheduling of courses of study.

Curriculum and School Activities

The Act would also make it compulsory for all schools in the Yukon to teach courses that include the history, traditions and values of the territory's aboriginal peoples. Locally developed courses could represent up to 20 per cent of the educational program offered to a student in a semester or a school year, and include cultural or traditional activities. School activities would incorporate the aboriginal cultural heritage traditions and practices of the First Nation members served by the school. Students would be excused from attendance at school if they are participating in Yukon aboriginal cultural or harvesting activities.

French Language Rights

Students whose parents have a right under Section 23 of the Charter of Rights and Freedoms to have their children receive instruction in the French language would be entitled to receive that instruction.

Separate Schools

All rights and privileges arising out of any agreement or understanding between the Commissioner of the Yukon Territory or the Minister of Education and the Catholic Episcopal Corporation would be continued under the draft Education Act.

Finance

School Authorities

Sections 293-306 establish the financial terms and conditions within which a school Authority would operate.

An Authority would have the fiscal responsibilities and powers to assume and carry out the following:

- Prepare its own annual budget in a form specified by the Minister and include items for administration, regular instruction, plant operation and maintenance, special advisory services, equipment and supplies, tuition and other costs for resident students attending an educational program outside the education area
- Administer and expend the annual budget
- Reallocate funds within the budget, and, with the approval of the Minister, retain year to year surpluses from its operations, and
- According to the provisions of the Act and the approval of the Minister, and under the by-laws of the Authority, invest and borrow monies necessary to meeting the responsibilities of the Authority.

The Minister, as approved by the legislature, could make capital grants to an Authority for:

- The acquisition of school sites or buildings for use as schools or as a teacher's residence

Capital equipment and materials for the operation or renovation of schools or a teacher's residence, and

- Construction of medical care, dental care or recreational facilities to be operated in association with schools.

The Minister, with legislative approval, could also provide funding to an Authority for any purpose according to mutually agreed upon terms and conditions.

School Councils

The Minister would consult each Council in the preparation of the annual budget for a school that is located within the education area of the Council. Like Authorities, Councils could make investments. The Minister could make discretionary grants to Councils.

Financial Controls

To ensure strict fiscal responsibility and accountability, the draft Act establishes a set of financial controls.

Role of the Minister

The draft Act would require the Minister to assume the following budgetary responsibilities for the budgets of the Authorities and Councils:

- Review the annual budget and approve any modification to it.
- Establish the purposes for which budgetary expenditures can be allocated.
- Where over expenditures occur, without approval, deduct the amount of the excess from the annual budget of the Authority for the following or later fiscal years subsequent to the school year.
- Approve borrowing, capital and discretionary grants and retention of surplus funds.
- Consult with the Authorities and Councils in the preparation of their budgets.

When approving an annual budget for an Authority, the Minister must consider the:

- Number of students enrolled in its schools
- Types of educational programs required to meet the educational needs of the students
- Need for special services, and
- Formula established pursuant to the Act for grants and contributions.

Role of the Auditor

Under the draft Act, Authorities must appoint an auditor or have one appointed for them by the Minister to audit all of their financial transactions prior to their annual meeting. The auditor would have the usual duties of auditing and reporting relating to the affairs of the Authority. The Auditor would submit a report to the Authority and the Minister identifying any discrepancies, deficiencies, or irregularities pertaining to the affairs of the Authority as they relate to the established approvals and authorizations.

Role of the Department of Education

The proposed Education Act formally recognizes the existence and role of the Department of Education and the Minister of Education.

Under the Act, the Department is responsible for the following:

- Standards of curriculum
- Payment of all bills, either directly or indirectly through School Councils and Authorities
- Monitoring and assessing schools
- Devolution of responsibility to School Councils and especially School Authorities
- Education funding in the territorial budget
- Ensuring equity of access to available resources and expertise for all children, and
- Supervising schools under Ministerial control.

Role of the Minister of Education

The Minister of Education must ensure that the Department of Education carries out its duties and obligations as laid out in the draft Act. Simply stated, the goal of the draft Act is to help each child become a productive, responsible, and self-reliant member of society. The Minister would ensure that school studies and activities are consistent with this goal.

Ministerial Duties

Under the draft Act, the Minister has the following duties:

- to establish and distribute goals for the Yukon's education system
- to contribute to the professional development of teachers
- to approve and to ensure access to textbooks, equipment, and any other materials used by schools
- to institute adult training and continuing education programs
- to maintain human resource development and planning services, and

The Minister is also responsible for ensuring that an appeal process is in place for resolving disputes. The Minister must appoint a chair, up to nine other members, and a secretary to the Education Appeal Tribunal. The choice of members is significant, since the Tribunal's decisions are final and binding. It can even overrule the Minister.

Ministerial Powers

The Minister may, among the powers outlined in the draft Act, do the following:

- Establish schools and provide for school closings
- Designate the grades to be offered in each school
- Approve locally-developed curriculum
- Supply textbooks and other instructional materials
- Investigate or authorize a person to investigate educational programs, instructional materials, school buildings, evaluations of teachers and principals, and the operations of any school or School Authority
- Establish and provide for the operation of student residences and boarding programs, and
- Enter into and sign agreements on any matter dealing with education or school operation, including agreements with the Government of Canada, Yukon First Nations, and School Authorities or Councils.

Delegation of Powers

The Minister's powers may, in most instances, devolve to the local level. This is a major goal of the draft Education Act.

Within the department, ministerial powers may be delegated to the Deputy Minister, the Superintendent, the Regional Superintendents, or other persons named by the Minister. Powers may also be delegated outside the department to School Authorities and Councils, as well as to groups and individuals named by the Minister.

The Minister may appoint persons to fill vacancies on School Authorities or Councils if there are insufficient nominations during an election, or in the event of a resignation.

Should an Authority fail to carry out its duties and functions, the Minister would have the power to appoint an Official Trustee who could help the Authority Trustees, perhaps by training or simply advising them. The Official Trustee could veto Authority decisions or, in extreme cases, take over the powers and duties normally exercised by the Trustees, who would then be dismissed from office by the Minister.

This power is consistent with education legislation in other provinces. It ensures that if School Authorities contravene the Education Act, a speedy solution is at hand to protect community interests. Without this provision, elections would be the only means for parents and communities to effect change.

Once the affairs of an Authority are in order, the Minister has the power to revoke the appointment of the Official Trustee and make arrangements for the election of new Trustees to the Authority.

If a School Council contravenes the Education Act, the Minister may revoke the delegated powers. When the Minister considers it advisable, those powers may be returned to the Council.

Appeals

There are two levels of appeals open to students and/or their guardian(s).

Local Appeals

Section 142 of the draft Act establishes a procedure by which the parent of a student, a responsible adult chosen by the student or a student of 16 years of age or older can appeal decisions made by a person employed in a school. The grounds for appeal are that the decision has significantly affected the health, safety or education of the student, and that the matter to be appealed does not fall under the jurisdiction of the Educational Appeal Tribunal. The appeal is made to the Deputy Minister of Education, or in cases where the person is an employee in a school operated by an Authority, to the Authority. For the purposes of hearing appeals under Section 142, the Deputy Minister of Education and each Authority would be responsible for establishing an appeal procedure. Parents, students and affected persons would have the right to be heard before a decision on the appeal is rendered.

Educational Appeal Tribunal

Sections 143-150 of the draft Act outline the composition and powers of the Educational Appeal Tribunal as well as its procedures. The tribunal would comprise a chair, a secretary and a maximum of nine other members. The chair and members would serve terms fixed by the Minister of Education. The Educational Appeal Tribunal has the power to:

- Confirm or vary a decision under appeal
- Identify a student as a student with special educational needs
- Direct an Authority or the Deputy Minister of Education to implement an Individualized Education Plan in a particular environment, which might be a regular classroom
- Direct an Authority or the Deputy Minister to enroll a student in a specified school
- Determine that an Individualized Education Plan be prepared for a student and apportioning the cost of the services required for the Plan to an

Authority, the Department of Education or any other government department

- Define the contents of a student record
- Determine if parents are liable for damage to school property caused by their child and the fine to be paid
- Reinstate to school a student placed on indefinite suspension by a School Council, Authority or Superintendent
- Approve a locally developed course for inclusion in the school's curriculum, if such curriculum is rejected by the Minister of Education, and
- Determine the school year.

Procedures

Appeals to the Educational Appeal Tribunal would be heard by the chair alone or by the chair and one or more members chosen by the chair. The chair would, when possible, call on members whose qualifications are specifically appropriate to the matter under consideration. The chair could also call in experts to serve as advisors on the case.

In all cases, the Educational Appeal Tribunal would be able to make any investigation it considered necessary to reaching a decision. In reaching a decision, however, the tribunal would be obliged to consider such factors as the educational interests of the student and the effect of the decision on other students.

Any decision reached by the Education Appeal Tribunal is final and binding on the parties involved.

Rights and Responsibilities of the Appellant

No decision would be made by the Educational Appeal Tribunal without giving the parties an opportunity to make representations.

Appeals to the Educational Appeal Tribunal may be heard in any place or community. The parties must be notified of the time, place and date of the hearing.

Each party would pay its own costs unless the Educational Appeal Tribunal ordered otherwise.

Review of the Education Act

Section 328 states that on or before 10 years from the proclamation of the Education Act, the Minister would be required to establish a process for a review of the Act. That process would include consultation with and involvement of the persons elected or appointed under the Act, the Council for Yukon Indians, the teachers' association and other groups interested in education in the Yukon. A report of the process and recommendations resulting from the process would have to be tabled in the Legislative Assembly by the Minister within six months of the establishment of the process.

Conclusion

Building on the Past, Preparing for the Future

Our education is one of the most important activities in which we participate over the course of our lives. It marks us in profound ways. It shapes who we are, how we think and what we do.

All of us – men and women, adults and children, Indians and non-Indians – draw on our education to involve us in all aspects of everyday life – on the job with our fellow workers, at home with our families, and at play with our friends. It is a "food" which nurtures and sustains us in all that we do today and will do in the future

For each of us, our education and our learning occur in a variety of different settings – our classroom, school yard, community hall, church, job or business, trapline, town or wilderness lake. As we change and the world in which we live changes, so our social and economic needs change. In turn, our education must change as well. It must continue to build on our strengths and the traditions that define us through our past. At the same time, it must enable us to participate in the opportunities of the present and meet the challenges of the future.

In the Yukon, it is time to make changes in our educational system in order to reflect our changing needs. The drafting of a new education Act is a big step in doing just that.